

**6****WANGER JONES HELSLEY**

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Attorneys for Debtor and Debtor in Possession, Kewel K. Munger, dba Munger Investments

**UNITED STATES BANKRUPTCY COURT****EASTERN DISTRICT OF CALIFORNIA****FRESNO DIVISION**

In re:

Case No. 24-12709

KEWEL K. MUNGER dba MUNGER  
INVESTMENTS,

Chapter 11

Debtor in Possession.

DC No.: CAE-1

SSN#: xxx-xx-8195  
Address: 2907 Oakley Street  
Bakersfield, CA 93311Date: November 7, 2024  
Time: 10:30 A.M.  
Place: 510 19th Street  
Bakersfield, CA  
Judge: Honorable Jennifer E. Niemann**FIRST STATUS CONFERENCE STATEMENT**

TO THE HONORABLE JENNIFER E. NIEMANN, UNITED STATES BANKRUPTCY

JUDGE:

Kewel K. Munger, dba Munger Investments (“Kable” or “Debtor”) respectfully comes before the Court in response to the Order re: Chapter 11 Status Conference issued September 24, 2024 and provides this First Status Conference Statement so that the Court might be better apprised as to the status and background of this Chapter 11 proceeding as follows:

1. The Chapter 11 Petition was filed on September 17, 2024 (the “Petition Date”). An overview of the Debtor, the estate and the Chapter 11 case is as follows.

1           2.       Kable is a farmer, agribusinessman and entrepreneur. He is sixty-four years old  
2 and a resident of Kern County.

3           3.       Kable and his older brother, Baldev (aka David) Munger, (herein “David”) are  
4 sons of an immigrant who began farming in 1971. Around 1988, Kable and David assumed  
5 responsibility for the Munger businesses and they have since created a significant “enterprise”  
6 through numerous entities consisting of over 14,000 acres (Washington, Oregon, and California),  
7 operating multiple processing facilities, operating multiple frozen storage facilities, marketing  
8 and selling fresh, frozen, and ready-to-eat fruit products, as well as multiple real estate investment  
9 holdings. The enterprise primarily grows blueberries and pistachios (comprising over 75% of the  
10 business), but also grows hazelnuts and wine grapes. At peak, over 2,000 people are employed.

11           4.       A list of the entities owned equally by Kable (as community property with his  
12 estranged, non debtor wife, Janie), and David is shown on Exhibit A. In each instance the  
13 ownership is 50/50, except as to Monarch Nut Company, LLC which is 100% owned by Kable.  
14 Outside the entities, Kable and Janie do business as Munger Investments. Janie is a nonfiling  
15 spouse. Kable and/or David are the managers of each of the entities.

16           5.       In addition to ownerships through entities, Kable and Janie also own multiple real  
17 properties as community property as shown on Exhibit B. The “farming” properties are leased to  
18 Munger entities. They also own considerable “residential” properties shown on Exhibit B.

19           6.       Kable and Janie have four adult children all of whom are employed in the Munger  
20 businesses. Kable and his brother are employed by Munger Bros., LLC.

21           7.       This First Status Conference Statement is supported by the Declaration of Kewel  
22 K. Munger In Support of Debtor’s First Status Conference Statement (the “Declaration”), filed  
23 concurrently herewith.

24           8.       As described in the Declaration the instant Chapter 11 case is the result of several  
25 factors, some of which are:

- 26           a.       Low commodity prices. As an example, the price of pistachios dropped  
27 from \$2.75/lb in 2020, to \$1.95/lb and sat at \$1.75/lb in 2023. The  
28 ‘opening grower’ price for pistachios in 2024 is \$1.50/lb.

- b. Higher input prices. By way of example, labor costs increased by 30% from 2019 through 2024. Water costs ballooned in 2022 before coming back down in 2023 and 2024, but were still expensive. The extreme heat in July/August in central California has impacted pistachio weights and quality.
- c. Adverse weather impacting production. Record-high temperatures in the Pacific Northwest in summer 2021 followed by record flooding in November 2021 and January 2022, hurt blueberry output, especially in Washington and Oregon.
- d. Interest rates. Interest rates on loans from AgWest Farm Credit increased from 3% in 2021 to 6.75% in 2022 and up to 8.3% in 2023, and are currently at 8.3%.
- e. Land values. There has been a very steep decline in land prices involving pistachio production. Currently, high quality pistachio land, with excellent water rights, are selling for around \$25,000 per acre; some pistachio land with only one water source is selling for as low as \$10,000 to \$14,000 an acre.
- f. SGMA. Stepped up activity by regulators as to ground water is directly impacting land values, especially in single-source areas.
- g. Divorce proceedings. On June 12, 2023 Janie filed a dissolution of marriage action in the Kern County Superior Court. Both Kable and Janie have engaged multiple divorce attorneys and financial consultants. Janie and I have incurred hundreds of thousands of dollars in attorney's fees in the dissolution matter. The dissolution proceeding is still in the discovery stage; no trial date is set. The marriage has not been dissolved, and the community property has not been divided. The future cost of the divorce is unknown.

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- h. Distressed loan. The primary creditor of the Munger businesses is Ag West Farm Credit, which is owed about \$140,000,000 as of September 2024. Kable and Janie are co-borrowers on all of the loans to the Munger entities, as is David. The entities all have operating debts. All obligations by the Munger Entities are current as of present.
- i. Losses. The Munger entities have sustained very large operating losses in the past few years:

HISTORICAL OPERATING PROFITS FOR MUNGER ENTITIES		
Year	Amount	(Net Decrease)
2020	1,897,700	(476,411)
2021	(3,725,303)	(5,623,003)
2022	(11,262,427)	(7,537,124)
<b>Total:</b>	(13,090,030)	(13,636,538)

Financial professionals have not completed an audit of the Munger Entities' books for 2023; but, losses are anticipated to be in the range of \$11.8 million for 2023. Anticipated losses for 2024 are approximately \$12 million.

- j. Operating capital insufficiency. Munger Bros., LLC has operating lines of \$70 million, \$30 million, and \$14.0 million; and Monarch Nut Company, LLC has an operating line of \$10 million operating line, all from Ag West Farm Credit.<sup>1</sup> Munger Entities were bumping up against credit line limits as of September 2024. There is insufficient revenue coming in to pay the operating loans, and there is no commitment for funding the 2025 crop year which begins October 1, 2024. The Munger enterprise will run out of money unless an agreement is reached with AgWest Farm Credit. Discussions are now under way with AgWest Farm Credit, but there has

<sup>1</sup> Kailash Farms, LLC and Kailash Wellness, LLC also have revolving lines of credit with AgWest Farm Credit.

1                   been no agreement for additional funding. Discussions are also ongoing  
2                   as to downsizing.

3                   k.     Excess withdrawals. Collectively, Janie and Debtor withdrew  
4                   approximately \$17.5 million more from the Munger business entities than  
5                   David. David recently served an arbitration demand on Debtor to equalize  
6                   capital account balances for Munger Bros., LLC. Debtor does not have  
7                   \$8.75± million in liquid assets to repay David.

8                   l.     Eriksson LLC contract cancellation. Eriksson LLC canceled its contract  
9                   with the Munger Entities in September 2018. The Munger Entities  
10                  continue to sustain significant losses as a result of termination of this  
11                  agreement, and will continue to sustain losses until 2042, the year the  
12                  Eriksson LLC contract was to expire. The cancellation resulted in a huge  
13                  reduction in product deliveries for processing.

14                9.     Following the Petition Date, Debtor continues to operate and manages his affairs  
15                as a debtor in possession. No trustee, examiner, ombudsman or committee has been appointed.  
16                The Munger entities are all non-debtors and continue to operate.

17                10.    Debtor intends to continue to operate the estate assets while deciding on what and  
18                how to liquidate to pay down debt. Debtor fully anticipates the plan will provide for 100%  
19                payment to secured and non-insider unsecured creditors, and pay resulting taxes.

20                11.    The key issues faced by Debtor in the near term are: identifying non-producing  
21                assets; obtaining a fair price for same; valuating the various entities; liquidating sufficient assets  
22                to pay secured creditors to shrink down to a manageable debt load and pay taxes generated by  
23                sales of assets.

24                12.    Debtor intends to file his Plan on or before the deadline for doing so.

25                13.    Debtor will soon be filing numerous motions seeking authority to value and sell  
26                assets.

27                14.    Motions to assume leases of farmland are expected to be filed.

28                ///

1           15.     Several applications to employ professionals are expected, including valuation  
2 professionals.

3           16.     The Debtor is current on all administrative requirements.

4           17.     No Creditors' Committee has been appointed. There are very few undisputed,  
5 unsecured, non-insider creditors.

6           18.     Debtor is administratively solvent.

7           19.     Debtor is not aware of any Section 503(b)(9) claims against him.

8           20.     As of the date this First Status Conference Report was filed, there were no pending  
9 motions for relief from stay.

10          21.     There are no cash collateral issues at this time.

11          22.     It is anticipated that there will be contentious issues stemming from the pending  
12 arbitration and dissolution and there may be removal of certain pending court actions.

13           WHEREFORE, the Debtor prays that the Court be apprised accordingly and notes that he  
14 will appear, through counsel, at the Status Conference to answer any questions the Court or  
15 creditors may have at which time it will ask that the Status Conference be continued about 60  
16 days.

17  
18 Dated: October 9, 2024

WANGER JONES HELSLEY

19  
20 By: Riley C. Walter  
21 Riley C. Walter  
22 Ian J. Quinn  
23 Attorneys for Debtor in Possession,  
24 KEWEL K. MUNGER dba MUNGER  
25 INVESTMENTS  
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